

WHO'S ON THE HOOK? WELL, WHAT DOES THE CONTRACT SAY?

A Primer on Contract Indemnification and Insurance

WHAT'S IT ALL ABOUT

- Indemnification
- Insurance Requirements
- Required Limits
- Additional Insured
- Certificates of Insurance
- Policies, Exclusions and Endorsements



LET'S FIRST KNOW THE MUMBO-JUMBO

- CGL – Commercial General Liability
- E&O – Errors & Omissions
- EPL – Employment Practices Liability
- AL – Auto Liability
- WC – Workers Compensation
- COI – Certificate of Insurance
- AI or ANI – Additional Insured or Additional Named Insured
- P&NC – Primary and Non-Contributory
- XS – Excess insurance or Umbrella insurance



THE FOUNDATION OF IT ALL- INDEMNIFICATION

- Any protection you receive from the Contractor or its insurer is going to be limited to what they are obligated to under the Indemnification Provision of the contract.
- Indemnification needs to be very broad to provide broad protection, while being specific to what you expect to be protected against.
- Because the indemnification provision will be interpreted by the courts very strictly, there is no sample language that will work in all circumstances.



INSURANCE REQUIREMENTS

- What Kind of Insurance
- How Much Insurance
- Additional Insured
- Certificate of Insurance



REQUIRED TYPES OF INSURANCE

- Specific Policies
- Specific Endorsements



REQUIRED LIMITS OF INSURANCE

- Primary Limits
 - Per Occurrence Limits should exceed your per occurrence risk
 - Aggregate Limits - how many contracts will you have with them, and what about other business the policy covers?
- Excess Limits
 - Can be used to supplement the Primary limits to add to per occurrence and annual aggregate
- Ancillary Coverage Limits including Med Only, Damage to Rented Property,

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COORDINATING LIMITS WITH GOVERNMENTAL IMMUNITY

- Governmental Immunity Act
 - Governmental Tort Liability Limits are based on
 - Per Person/
 - Per Occurrence basis
 - No Annual Aggregate
- Insurance Policies
 - Liability Limits are provide on a Per Occurrence/
 - Aggregate Limit basis – Aggregate is for the entire policy period



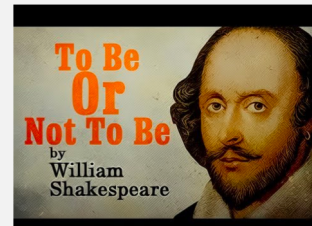
RISK TOLERANCE TIME-OUT

- Limits depend on your county's risk tolerance
- Different for each county
 - Financial Position
 - Current Elected Officials
 - Public Concerns



ADDITION INSURED OR NOT ADDITIONAL INSURED?

- Additional Insured if you want to send your claims off to an unknown insurer to defend the county.
- Not Additional Insured if you want to control the defense of the claim against the county.
- Additional Named Insured, not unless the contract is a partnership.



CERTIFICATES OF INSURANCE

- FOR INFORMATION ONLY
- Does not change coverage or confer any rights
- Cannot ask for changes to form
- Cannot name AI without endorsement
- Only good as of the day it is issued
- Things to look for...



ACORD		CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY)	
<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p> <p>IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).</p>					
PRODUCER Name and address of the Agency providing the Certificate		CONTACT NAME Name and contact info for the agent providing the Certificate PHONE: _____ FAX: _____ E-MAIL: _____		INSURER(S) AFFORDING COVERAGE INSURER A: _____ INSURER B: _____ INSURER C: _____ INSURER D: _____ INSURER E: _____ INSURER F: _____	
INSURED Name of the insured that is providing the Certificate to you. The name here should be the same as the name that appears on the agreement that requires they provide a certificate.		NAIC # of each insurance company INSURER A: _____ INSURER B: _____ INSURER C: _____ INSURER D: _____ INSURER E: _____ INSURER F: _____		REVISION NUMBER: _____	
<p>COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:</p> <p>THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.</p>					
TYPE OF INSURANCE <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> For additional coverages (L.A.) <input type="checkbox"/> Products coverage for food vendors <input type="checkbox"/> GEN. AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PER <input type="checkbox"/> LOC <input type="checkbox"/> OTHER _____		POLICY NUMBER Policy number of policy. Commercial General Liability box should be checked, and OCCUR box, if Claims made box is checked, they will need to keep renewing policy for at least one year after event.		POLICY EFF. DATE Date Policy expires, a date after the event. Will need to keep renewing policy for at least one year after event.	
AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED <input type="checkbox"/> AUTO <input type="checkbox"/> HIRE/AUTOS <input type="checkbox"/> SCHEDULED <input type="checkbox"/> AUTO <input type="checkbox"/> NON-OWNED <input type="checkbox"/> AUTOS <input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE		POLICY NUMBER Policy number of policy. Any Auto is best, but any are acceptable.		POLICY EFF. DATE Date Policy expires, a date after the event. Will need to keep renewing policy for at least one year after event.	
WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE/EMPLOYEE IS NOT If yes, describe under DESCRIPTION OF OPERATIONS below		POLICY NUMBER Policy number of policy. If they claim no employees, only owners, get		LIMITS Each of these boxes and \$ Should show the actual limits for the different coverages under CGL, including per occurrence, Annual Aggregate, Medical Payments, per occurrence, Damage to rental Prop, Should show the Per Person and Per Accident and Combined Single Limit, Should show actual limits of policy, Should show "statutory benefits" and Employers Liability limits	
<p>DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101 Additional Remarks Schedule, if more space is required) This area is for used to describe the specific coverage applying to the agreement with the Certificate Holder. A statement that the liability insurance includes contractual liability to cover the indemnification provisions of the agreement with the County should be included here. If named Additional Insured, be sure the County's legal name is used on the policy endorsement.</p>					
CERTIFICATE HOLDER Legal name and address of the entity requesting the certificate.		CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE _____ Signature of Agent providing Certificate			

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CONTRACT POLICY & MATRIX YOUR INSURANCE CHEAT SHEET

